

### **REMARKS/ARGUMENTS**

Applicants would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office Action, and amended as necessary to more clearly and particularly describe the subject matter that Applicants regard as the invention.

Claims 4 and 5 have been amended.

Claims 4–8 and 10–12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Pawlish (U.S. Patent No. 5,276,916) in view of Imai (U.S. Patent No. 6,389,267). Claims 4 and 5 have been amended. For the at least the following reasons, the examiner's reject is respectfully traversed.

None of the references disclose or suggest “a volume variable unit which adjusts a sounding volume of the second speaker to a level substantially same as a sounding volume of the first speaker” as recited in claims 4 and 5.

Pawlish discloses a radio 10 with a speaker 33 connected to an audio amplifier 32 and a microphone 34 connected to a microphone amplifier 35 (col. 2, lines 45–60). Pawlish also discloses that the gain of the audio amplifier 32 and the gain of the microphone amplifier 35 are settable by using up-and-down controls 15, 16 (col. 3, lines 4–42). In Pawlish, the gain of the audio amplifier 32 when the radio is in the open position may be set independently of the gain of the audio amplifier 32 when the radio is in the open position.

Although Pawlish discloses that the gain of the audio amplifier and the microphone amplifier are settable by using up-and-down controls, Pawlish fails to teach adjusting the gain of two audio amplifiers or the volume of two speakers. Therefore, Pawlish does not disclose or suggest adjusting a volume of a second speaker to a level substantially the same as a volume of a first speaker. Thus, Pawlish does not disclose or suggest a volume variable unit which adjusts a

sounding volume of a second speaker to a level substantially the same as a sounding volume of a first speaker as in the claimed invention.

Imai does not overcome the deficiencies of Pawlish. Imai merely discloses a radio with a first speech transmitting and receiving section and a second speech transmitting and receiving section. Imai does not disclose or suggest adjusting a volume of the second speech receiving section to a level substantially the same as a volume of the first speech receiving section. Therefore, Imai does not disclose or suggest a volume variable unit which adjusts a sounding volume of a second speaker to a level substantially the same as a sounding volume of a first speaker as in the claimed invention. Therefore, even if combined, the references do not disclose or suggest all the elements of the claimed invention.

Further with regards to claims 4 and 5, none of the references disclose or suggest “wherein the switching unit switches to the first function when the first case and the second case are opened to each other during communication in a state that the second function is set” as recited in claim 4, and “wherein the switching unit switches to the second function when the first case and the second case are closed to each other during communication in a state that the first function is set” as recited in claim 5.

Pawlish discloses a position switch 37 that is connected to the controller 36 in order to provide automatic control features in the radio 10 relating to the positions of the housing portions 11, 12 (col. 2, line 65, to col. 3, line 56). Although Pawlish discloses a position switch, Pawlish does not disclose or suggest a switching unit that switches from a first function to a second function when the housing portions are opened or closed during communication.

Imai does not overcome the deficiencies of Pawlish. Imai discloses a switch 20 that is connected to control unit 10b to place a first speech transmitting and receiving section in the active state when the housing portions are in the open position and to place a second speech

transmitting and receiving section in the active state when the housing portions are in the closed position (col. 7, lines 41–62). However, Imai does not teach switching between the speech transmitting and receiving sections when the housing portions are opened or closed during communication. Thus, Imai does not disclose or suggest a switching unit that switches from a first function to a second function when the housing portions are opened or closed during communication. Therefore, even if combined, the references do not disclose or suggest all the elements of the claimed invention.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. 37251.

Respectfully submitted,  
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